

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING
OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD
AND NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

PUBLIC MEETING: On **March 16, 2006**, at 10:00 a.m.
in the County Administration Center,
1600 Pacific Highway, Room 358, San Diego, California.

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

PUBLIC HEARING: On **March 16, 2006**, following the Public Meeting
in the County Administration Center,
1600 Pacific Highway, Room 358, San Diego, California.

At the Public Hearing, the Board will consider the public testimony on the proposed changes to occupational safety and health standards in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **March 16, 2006**, following the Public Hearing
in the County Administration Center,
1600 Pacific Highway, Room 358, San Diego, California.

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

JOHN D. MACLEOD, Chairman

NOTICE OF PROPOSED CHANGES TO TITLE 8
OF THE CALIFORNIA CODE OF REGULATIONS
BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, Construction Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on **March 16, 2006**.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 11
Sections 1598 and 1599
Update References for Traffic Control

2. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4
Appendix B, Plate B-1-a
Sanitation of Personal Safety Devices

A description of the proposed changes are as follows:

1. **TITLE 8: CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4, Article 11
Sections 1598 and 1599
Update References for Traffic Control

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

This rulemaking action is the result of a Request for New, or Change in Existing, Safety Order, dated February 3, 2005, submitted by the Division of Occupational Safety and Health (Division). The Division requests that the Occupational Safety and Health Standards Board (Board) update references to the State Department of Transportation (DOT) Manual of Traffic Controls in Sections 1598 and 1599 of the Construction Safety Orders (CSO) and replace them with appropriate references.

Section 1598. Traffic Control for Public Streets and Highways.

Subsection (a)

This subsection contains the requirements for traffic controls where a hazard exists to employees due to traffic or haulage conditions that encroach upon public streets or highways. Currently, these traffic controls must be in conformance with the Manual of Traffic Controls for Construction and Maintenance Work Zones – 1996 (Manual). The proposed rulemaking would update the existing reference to the Manual on Uniform Traffic Control Devices (MUTCD) dated December 2000, as amended by the MUTCD California Supplement dated May 20, 2004. Language will be added to advise employers that the Manual is available from the Federal Highway Administration website or the California Department of Transportation's website. The effect of these changes is to clearly indicate to employers where the standards may be found which pertain to protecting employees from the hazards associated with exposure to vehicular traffic.

Note to subsection (a)

The "Note" states that additional means of traffic control for the safety of employees may be employed. The "Note" further states that the criteria for position, location and use of traffic control devices described in the Manual are not mandatory and are furnished solely for guidance and information. The proposed amendment would delete the statement that the criteria for traffic control devices are not mandatory, and are furnished for guidance and information only. The effect of these changes is to ensure that the requirements for traffic control devices as described in the Manual are enforced and employees are protected from the hazards associated with exposure to vehicular traffic.

Subsection (b)

Subsection (b) states that the specifications for the size and design of signs, lights, and devices used for traffic control are found in the Manual, published by the State Department of Transportation. The proposed amendment would delete the language, "published by the State Department of Transportation." The effect of the change is to remove obsolete information from Title 8.

Note to subsection (b)

The “Note” advises the reader that the Manual may be obtained at any Division office or from the Department of Transportation. The effect of the amendment is to delete the “Note” because the Manual is no longer available in print from these two sources.

Section 1599. Flaggers.**Subsection (c)**

Subsection (c) requires the placement of warnings signs to be in accordance with the Manual of Traffic Controls for Construction and Maintenance Work Zones - 1996. The proposed amendment would update the existing reference to the Manual on Uniform Traffic Control Devices dated December 2000, as amended by the MUTCD California Supplement dated May 20, 2004, and delete the statement that the Manual is published by the State Department of Transportation. Language will be added to advise employers that the Manual is available from the Federal Highway Administration website or the California Department of Transportation’s website. The effect of these changes is to update the standard and ensure that employers practice current standards when the placement of warning signs is required for employee safety and to clearly indicate to employers where standards may be found which pertain to protecting employees from the hazards associated with exposure to vehicular traffic.

DOCUMENTS INCORPORATED BY REFERENCE

1. U.S. Department of Transportation Federal Highway Administration Manual on Uniform Traffic Control Devices, Part 6, Temporary Traffic Control, Millennium edition, December 2000
2. MUTCD 2003 California Supplement, May 20, 2004, Part 6, Temporary Traffic Control

These documents are too cumbersome or impractical to publish in Title 8. Therefore, it is proposed to incorporate these documents by reference. Copies of these documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

COST ESTIMATES OF PROPOSED ACTION

The MUTCD is a standard that has been routinely updated for decades by the Department of Transportation. The process used to update this standard is for DOT to work with state highway officials, who provide federal officials with information on the evolving nature of traffic control devices and industry practices. The federal role consists primarily of compiling this evolving set of practices and devices into a national manual, the MUTCD that includes standards, guidance, and options. As noticed by a DOT official, the MUTCD essentially codifies current industry practice. Thus, most potentially affected parties, local governments, highway and utility contractors, and others, already apply the MUTCD. The DOT has consistently found that changes and revisions to the MUTCD do not lead to significant compliance costs.

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standards do not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, these standards do not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

These proposed standards do not require local agencies to carry out the governmental function of providing services to the public. Rather, the standards require local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standards do not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standards do not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standards.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California, as it represents industry practice.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

1. TITLE 8: **CONSTRUCTION SAFETY ORDERS**
Chapter 4, Subchapter 4
Appendix B, Plate B-1-a
Sanitation of Personal Safety Devices

INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW

Construction Safety Order Appendix B, Plate B-1-a, Sanitation of Personal Safety Devices, contains a list of recommended methods for sanitizing personal safety devices. The Division of Occupational Safety and Health (Division) staff reviewed this appendix and noticed it has not been revised since 1980 and that two of the four recommendations in Plate B-1-a for cleaning equipment are inappropriate since they involve the use of toxic materials. One specifies the use of formalin, a mixture of water and formaldehyde, which has been a regulated carcinogen since 1990 pursuant to Section 5217. An employer using the cleaning method recommended in Plate B-1-a would have to comply with Section 5217. The second recommendation specifies either: carbolic acid (phenol) which is absorbed through the skin and is now known to damage the nervous system; denatured alcohol which is a mixture of ethyl alcohol and poisonous methyl alcohol; and "Lysol" which is now a brand name for a variety of household products. Since articles made of fabrics, leather, or other absorbent materials could be treated with these disinfectants and then be placed in contact with the user's skin, there is potential for adverse health effects. Phenol, methanol, and some constituents of various products made by Lysol could also physically degrade and damage the components of the safety devices that are made of materials developed long after this appendix was written, and not tested for these cleaning methods.

Consequently, the Division recommends deleting these two recommendations and retaining the final two recommendations in Plate B-1-a which are the use of boiling water or the method recommended by the manufacturer of the safety device.

The effect of the proposed change is to ensure that health conditions of the regulated public are not compromised. It is probable that a majority of employers currently disregard the first two recommendations in Plate B-1-a as no longer appropriate based on material safety data information for

the specified cleaning products. Therefore, the proposed change would make the appendix consistent with current industry practice. There is no federal standard counterpart to this appendix.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose any significant nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of

providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All state, local and private employers will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California, as it represents industry practice.

REASONABLE ALTERNATIVES CONSIDERED

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than March 10, 2006. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on March 16, 2006, will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at oshsb@dir.ca.gov. The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes may be directed to Keith Umemoto, Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

JOHN D. MACLEOD, Chairman

TITLE 8

CONSTRUCTION SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 4, ARTICLE 11

SECTIONS 1598 AND 1599

UPDATE REFERENCES FOR TRAFFIC CONTROL

TITLE 8

CONSTRUCTION SAFETY ORDERS

CHAPTER 4, SUBCHAPTER 4

APPENDIX B, PLATE B-1-a

SANITATION OF PERSONAL SAFETY DEVICES

NOTICE OF ADOPTION OF REGULATIONS
INTO TITLE 8, CALIFORNIA CODE OF REGULATIONS
BY THE
OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD

After proceedings held in accordance with and pursuant to the authority vested in Sections 142, 142.3 and 142.4, of the Labor Code to implement, interpret, or make specific, the Occupational Safety and Health Standards Board, by a majority vote, adopted additions, revisions, or deletions to the California Code of Regulations as follows:

1. Title 8, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 76, Section 4650, Compressed Gas (Oxygen) Cylinder Storage.

Heard at the January 20, 2005, Public Hearing; adopted on November 17, 2005; filed with the Secretary of State on December 5, 2005; and became effective on January 4, 2006.

2. Title 8, Chapter 4, Subchapter 7, General Industry Safety Orders, Article 10, Section 3395, Heat Illness Prevention (Emergency Standard)

Re-adopted on December 15, 2005; filed with the Secretary of State on December 20, 2005; became effective on December 20, 2005; and expires on April 20, 2006.

A copy of these standards are available upon request from the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721.

If you have Internet access, visit the Occupational Safety and Health Standards Board by going to: **<http://www.dir.ca.gov/oshsb>** and follow the links to the Standards Board. This information is updated monthly. The Standards Board's e-mail address is: **oshsb@dir.ca.gov**.

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD

Keith Umemoto, Executive Officer